

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY  
SPENCER, and KATHRYN E. TETZ,

Plaintiffs,

v.

FORMER DEPUTY PROSECUTING  
ATTORNEY FOR CLARK COUNTY JAMES  
M. PETERS, DETECTIVE SHARON KRAUSE,  
SERGEANT MICHAEL DAVIDSON, CLARK  
COUNTY PROSECUTOR'S OFFICE, CLARK  
COUNTY SHERIFF'S OFFICE, THE COUNTY  
OF CLARK and JOHN DOES ONE THROUGH  
TEN,

Defendants.

No. C11-5424BHS

PLAINTIFFS' MOTION FOR  
LEAVE TO SUPPLEMENT THE  
RECORD, INSTANTER

NOW COME Plaintiffs, Clyde Ray Spencer, et al., by and through their attorneys,  
Kathleen T. Zellner & Associates, P.C., and for their Motion for Leave to Supplement the  
Record, Instanter, states as follows:

1. On May 24, 2012, Defendant Peters filed a motion for summary judgment  
seeking dismissal of all claims pursuant to Federal Rule of Civil Procedure 56. On June 18,  
2012, Plaintiffs filed a responsive pleading and motion for relief pursuant to Rule 56(d),  
seeking an order allowing additional discovery prior to responding to the dispositive motion.  
(Dkt. 78). The motion was supported by the affidavit of Kathleen T. Zellner. (Dkt. 79).

1           2.       Plaintiffs' motion cites to the videotaped interview conducted by Defendant  
2       Peters of Kathryn Spencer on December 11, 1984, that was not disclosed to Mr. Spencer until  
3       2009. (Dkt. 78, p. 5). However, the video was inadvertently omitted as an exhibit in counsel's  
4       supporting declaration. (Dkt. 79).

5           WHEREFORE, Plaintiffs respectfully request leave to supplement the record (Dkt. 79)  
6       with the video and transcript of the interview, instant, or any other relief deemed appropriate.

7                               Respectfully submitted,

8                               Davis Wright Tremaine LLP  
9                               Attorneys for Plaintiffs

10  
11                              By s/ Daniel T. Davies

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**CERTIFICATE OF ELECTRONIC FILING AND SERVICE**

I hereby certify that on October 29, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of said filing to the following:

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DATED this 29th day of Octobert, 2012.

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